

Zoning Text Amendment No.: 10-13  
Concerning: Hearing Examiner Waivers –  
Parking and Public Facilities  
Draft No. & Date: 1 – 12/1/10  
Introduced: December 14, 2010  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

---

By: Councilmember Floreen

---

**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- allow the Hearing Examiner to decide adequate public facility issues and parking waivers when the Examiner is granted the authority to approve a special exception application; and
- generally amend the special exception provisions for parking and public facilities

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 59-E-4.	PARKING FACILITY PLANS FOR PROJECTS CONSTRUCTED IN ACCORDANCE WITH BUILDING PERMITS FILED AFTER JUN 28, 1984
Section 59-E-4.5.	Waiver – parking standards
Division 59-G-1.	SPECIAL EXCEPTIONS – AUTHORITY AND PROCEDURE.
Section 59-G-1.21.	General conditions

**EXPLANATION:** **Boldface** indicates a Heading or a defined term.

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

\* \* \* indicates existing law unaffected by the text amendment.

### **ORDINANCE**

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. DIVISION 59-E-4 is amended as follows:**

\* \* \*

**Sec. 59-E-4.5. Waiver - parking standards.**

[The] When approving an application the Director, Planning Board, [or] Board of Appeals, or Hearing Examiner may waive any requirement in this Article not necessary to accomplish the objectives in Section 59-E-4.2, and in conjunction with reductions may adopt reasonable requirements above the minimum standards. Any request for a waiver under this Section must be referred to all adjoining property owners and affected citizen associations for comment before a decision on the requested waiver.

\* \* \*

**Sec. 2. DIVISION 59-G-1 is amended as follows:**

\* \* \*

**59-G-1.21. General conditions.**

(a) A special exception may be granted when the Board or the Hearing Examiner finds from a preponderance of the evidence of record that the proposed use:

\* \* \*

(4) Will be in harmony with the general character of the neighborhood, considering population density, design, scale, and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. [The Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy

standards in effect when the special exception application was submitted.]

\* \* \*

(9) Will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

(A) If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision must be a condition of granting the special exception.

(B) If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals or the Hearing Examiner must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.

\* \* \*

48           **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of  
49 Council adoption.

50

51 This is a correct copy of Council action.

52

53

---

54 Linda M. Lauer, Clerk of the Council